

# Yolo County Department of Agriculture Pesticide Use Enforcement Program Planning Guidance and Evaluation Fiscal Year 2006-07

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## **A. County Resources for Pesticide Use Enforcement**

Yolo County has ten licensed staff members available for the pesticide use program. This figure includes the commissioner, two deputy commissioners and seven field inspectors. These individuals contribute approximately 4.9 man-years to the program annually (roughly 9,800 hours). Of those hours, the bulk of time is invested in the permitting process. Two staff members continue to work on the field border process throughout the season, while four licensed staff dedicate their time to field inspections, investigations and related complaints. The remaining licensed staff members, once the permit issuance season ends, move to other programs within the department.

The department currently has three clerical staff that contributes approximately 1.5 man-years (3,000 hours) toward the pesticide program as support hours

All licensed staff have their own workstations with dedicated computers capable of running our permit/GIS program. Each inspector is supplied with their own vehicle, each equipped with sampling box, digital camera etc. to respond to complaints and other pesticide incidences.

The goal of the department has been to dedicate a minimum of 13,000 hours per year to the pesticide program. Of the seven licensed field inspectors, one was hired within the past year, as a new position was created. This inspector will be training with an experienced inspector for at least a period of one year.

The increase of other program requirements, as well as the addition of new programs will lead to changes within our pesticide program, particularly with monitoring inspections. Inspections will be targeted toward sensitive areas such as schools, agriculture/urban interfaces, wildlife areas or areas that have shown problems in the past. Follow-up inspections will remain a priority but surveillance shall be directed toward those areas identified as being sensitive

## **B. Annual Scope of Program**

Agricultural Pest Control Businesses Registered	131
Agricultural Pest Control Advisors Registered	117
Agricultural Pest Control Pilots Registered	45
Agricultural Pest Control Dealers In County	11
Structural Pest Control Operator Notifications	94
Farm Labor Contractors Registered	26
Operator Identification Numbers Issued	143
Private Applicators Certified	155
Restricted Materials Permits Issued	786
Restricted Material Sites	5,855
Notices of Intents Reviewed	4,780
Pesticide Use Report Data Records	24,217

### **Annual Scope Continued**

Projected Investigation Inspections	30
Projected Compliance Actions	50
Projected Enforcement Actions	30
Projected Pounds of Pesticides Applied	2,644,302
Estimated Work Hours	13,000

Numbers based on 05/06 Report 5 Summary Report

## **C. Restricted Materials Permitting**

### **Permit Evaluation-Process Evaluation and Improvement Planning**

#### **Permit Evaluation:**

Permits for restricted materials are issued to the operator or their designated representative of the property to be treated. Permits are signed by the permittee or documented representative as per Title 3 California Code of Regulations (3CCR section 6420). Permits are issued for a period of one year (calendar). Pest Control Advisors and Private Applicators indicate they have considered feasible, reasonable, and effective mitigation measures when using pesticides that require permits. Permits are site specific and evaluated to determine if a substantial adverse environmental impact may result at the time of issuance and if/when a notice of intent is received. The Yolo County Agriculture Department uses the Patrick Way Company “Ag GIS” program to issue permits and incorporate GIS mapping to help evaluate environmental concerns for sites identified on permits. This program enables the department to work with “real time” data with regard to specific sites. Feasible alternatives to restricted pesticides are considered and implemented when appropriate. Private Applicators (Growers) are sent a notice informing them that their permit is up for renewal. They are directed to make changes for the upcoming crop season and submit any changes to our office. Once received, the new permit is “built” for the upcoming season. Permits are done on a first come first serve basis. Once the permit is completed by a licensed staff member, an appointment is made to make changes as necessary and discuss specific issues regarding sites, buffers, proposed pesticides to be used, etc. A permit or Notice of Intent (NOI) is denied or conditioned recognizing and utilizing appropriate mitigation measures.

NOIs (3CCR, section 6434) are recorded on an NOI log sheet, an Excell Spread Sheet, and include required information (section 6434) including, but not limited to, date of intended application, method of application including dilution, volume per acre, dosage, permittee and name of pest control business if applicable. Yolo County has a centralized NOI procedure involving one central NOI line where individuals or business’ leave their NOI. The notices are recorded onto the log sheet each morning (Monday thru Saturday) and reviewed by licensed staff. The NOI is submitted at least 24 hours prior to start of application. NOI’s with less than 24 hour prior notice are approved when the commissioner determines, due to the nature of commodity or pest problem, effective control cannot be obtained or it is determined 24 hours are not necessary to adequately evaluate the intended application. This determination is noted on the permit or NOI.

### Strengths

- Staff experience and knowledge of production areas and sensitive areas
- Pat Way Permit Program and aerial imagery provide more accurate and thorough permits
- Restricted Material Permit (RMP) Conditions are used to prevent adverse public and environmental impacts
- Permits are issued on an annual basis, rather than multiple year, which allows staff to update the grower of any changes that he/she should be aware of to protect the public and the environment
- NOIs are reviewed and approved by licensed staff

### Weaknesses

- Shear number of permits and staff load creates a backlog
- Still transitioning to Pat Way Program/GIS so some files contain outdated maps
- The workload for permit processing impacts the number of pre-site inspections made on Notice of Intent
- Not completing and processing RMP and NOI denials for accurate Pesticide Regulatory Activities Monthly Report (PRAMR) submittal

### Goal or Objective

The goal of the Yolo County Department of Agriculture is to provide accurate permits to our constituents that contain as much relative information regarding each site as possible to assure that the public and the environment are protected. If we can accomplish this accuracy then the ability to evaluate NOIs is greatly improved

### Deliverables

- Issue Permits utilizing the “Ag GIS” permitting system that incorporates GIS fields in timely manner
- Evaluate permits for adverse environmental impacts and approve, deny, or condition as necessary. Complete all applicable forms for submittal on PRAMR
- Review permits for completeness and accuracy. Clerical staff prior to logging the permit will re-check each permit and return it to the issuing specialist for any missing data. They will also note all Non-Ag permits and compile them on a spreadsheet for annual inspection
- Record and evaluate all NOIs
- Make sure that all NOI’s are approved or disapproved by licensed PUE staff
- All NOIs that are denied shall be followed up with a proper NOI denial form and counted for PRAMR and filed
- Permit denials for pesticides shall be documented on a proper denial form and counted on the PRAMR and filed
- Develop aerial imagery maps for all production sites to aid in determining exact locations

### Measures of Success

The best measure of success is the yearly evaluation of our permitting process for deficiencies. This will include the review of permits, non-compliances, PRAMR data. Are NOIs and Permits denied based on the accuracy of our permits? Are we able to amend NOIs or Permits to address concerns found during the “building” of the permit?

### **Site - Monitoring Plan**

#### Site-Monitoring Plan Development

Licensed staff will monitor permits as required in (section 6436). A minimum of five percent of the 5855 sites identified in permits or NOIs will be monitored. During the 2005/2006 fiscal year the department reviewed 6.7% of the 4,780 Notice of Intents received. All non-ag permit holders are inspected once a year. Structural Pest Control fumigations, particularly aeration inspections, will be targeted to ensure the TRAP plan is utilized to protect the public. Fumigations in densely populated residential areas are considered priority inspections. Monitoring priority will be given to other sites based on their location, toxicity of product intended for use, the applicator for the job, adjacent environment concerns etc. Rice water holds will continue to be a priority as well as applications within the county’s Ground Water Protection Areas (GWPA’s).

A continuing history sheet is maintained for each permittee in their file. Copies of all inspections are in the permittee file, as well as maintained monthly in the deputy’s office. For the 2005/2006 fiscal year a spreadsheet was developed to track non-compliant inspections as well as follow-up inspections. Inspectors this year will complete all inspections on laptop computers. This procedure will enable the field staff to check the current history of the applicator, as well as, enable the user to check for current permit information including site location, permitted pesticides, applicable buffers or special circumstances that were included on the pesticide permit. Upon completion of the inspection, at end of the month, the laptop data will be downloaded to produce accurate PRAMR data.

### Strengths

- The current computer permit program enables licensed staff to evaluate NOIs, through our GIS system, with the aid of a “layer” which designates buffers to sensitive sites such as schools, designated wildlife habitat, crops, ag/urban interface and water sheds, etc
- Experienced staff with a knowledge of growers, as well as, sites within the county that may require special attention to prevent adverse effects to the public or environment if an application is made
- NOI spreadsheet that is developed daily and approved or denied by licensed staff
- Experienced field personnel to make inspections
- Laptop produced inspection forms for accurate reporting and tracking of non-compliances

### Weaknesses

- Because of other programs, staff is limited for field inspections
- Field staff is still in “training mode” with our field laptop system so added time will be needed to come up to speed which will reduce the number of inspections performed

- Due to other pesticide related programs, all non-ag permit holders were not inspected the minimum of once during the last fiscal year
- Due to workload, follow-up on non-compliant inspections has been slow

### Goal or Objective

A commitment to implement measures that ensure a site-monitoring plan that takes into consideration pesticide hazards such as, but not limited to, agriculture/urban interfaces, sites within a quarter mile of schools, ground water protection areas, rice herbicide monitoring program, cropping and fieldwork patterns and handler, permittee, and advisor compliance histories.

### Deliverables

- Continue to update our permits and imagery using Pat Way's program to identify sensitive sites
- Review each notice of intent to ensure:
  - A valid RMP was issued for the material to be applied to the intended site
  - Crop or application site is allowed by label/Section 18/permit conditions
  - Method of application is allowed by pesticide label & permit conditions
  - Dilution/volume per acre is appropriate
  - Material is appropriate for pest to be controlled
  - Surrounding areas will not be adversely impacted by application
- Make sure that all NOIs are approved or disapproved by licensed staff.
- All NOIs that are denied shall be followed-up with a proper NOI denial form and counted for the PRAMR and filed.
- Perform pre-application inspections on a minimum of 5% of the filed NOIs received

### Measures of Success

The best measure of success is the continuous evaluation of our site-monitoring plan for deficiencies. Compliance with the rice monitoring program (targeted applications and number of water hold inspections) will indicate how well our department is monitoring this program. Assessing the number of complaints received from agriculture/urban interfaces will help evaluate needs to address pesticide issues. Conducting pesticide use monitoring activities by focusing in on NOIs in a GWPA will assure that pesticides not approved for such areas are not applied. Periodic review by licensed staff and by our Department of Pesticide Regulation Enforcement Branch Liaison (EBL) will help in analyzing our measure of success in this program. Our department will commit to implement, assess and amend our site-monitoring plan as needed. This will include "new" pesticides to focus on, environmental factors that need addressing, new priority programs put into place by this department or DPR or an outside agency. This department will document our assessment findings and any changes to our site-monitoring plan.

## **D. Compliance Monitoring**

### **Comprehensive Inspection Plan**

Yolo County's inspection program evaluation reveals that 23% of our inspections are scheduled. These primarily include, grower headquarter safety inspections, those with previous non-compliances, and commodity fumigations. These inspection activities are prioritized by chemical

hazard, environmental concerns and applicator/grower compliance history. All other inspections are targeted after review of NOIs or through standard surveillance.

Analysis of our inspection activities during the 05/06 fiscal year showed that 41% of all pesticide monitoring inspections exhibited some type of non-compliance. Mix and load inspections showed a non-compliance rate of 36%. While these percentages appear high it is important to note that there are 30 requirements (inspection check boxes) for both the application and mix and load inspections. A non-compliant inspection, reflected in the percentages stated above, may have 29 of the requirements correct with one requirement deficient and is counted overall as a non-compliant inspection when in fact only 3% of the inspection was out of compliance.

### Strengths

- An effective targeted inspection plan utilizing the following components:
  - a) Implementation of a comprehensive GIS site mapping program
  - b) Implementation of a non-compliance tracking utilizing copies of all inspections in permittee file as well as a spreadsheet data base to ensure follow-up inspections are completed
- Increased compliance monitoring activities at sites near areas identified to be environmentally sensitive such as schools, daycare centers, agriculture/urban interfaces, and wildlife areas or in areas that have pesticide sensitive individuals
- A scheduled inspection process that is effectively identifying non-compliances during property operator worker safety training and record keeping inspections

### Weaknesses

- Follow-up inspections for non-compliances
- Structural fumigation/ aeration inspections for TRAP plan
- Maintaining up to date files for non compliances in permittee files
- Scheduling DPR oversight inspections with EBL

### Goals or Objectives

- Maintain a presence within the industry of effective monitoring that protects handlers, the public, and the environment

### Deliverables

- Agriculture/Urban pesticide applications – monitor applications to ensure safety to residence, schools and businesses and compliance with applicable permit conditions.
- Conduct 50 rice water hold inspections to assure that no illegal releases occur
- Target small operators with 1-3 employees to ensure worker safety compliance
- Target maintenance gardeners to bring into compliance for worker safety requirements
- When multiple worker safety violations are discovered during application inspection, a Tier 1 headquarters inspection will be performed where feasible
- Continue to offer training seminars to industry to inform them of their requirements.
- Utilize the Farm Bureau News Letter to give a “heads up” update on pesticides or safety issues relative to the time of year

### Program Inspection Goals:

I.	Application Inspections.....	150
	Category I, II & III.....	100
	Rice Water Holding.....	50
II.	Equipment Inspections.....	150
III.	Field Worker Safety Inspections.....	5
IV.	Mix/Load Inspections.....	25
V.	Fumigation Inspections.....	15
	Field.....	5
	Commodity.....	5
	Structural.....	5
VI.	Records Inspections.....	54
	HQ Employee Safety.....	30
	Pest Control Business.....	12
	Pest Control Dealer.....	6
	Pest Control Advisor.....	6
VII.	Storage Site Inspections.....	48
VIII.	Educational Outreach & Training Sessions.....	25

The Chief Deputy will completely review all inspection reports and activities of the enforcement personnel. All non-compliances will be tracked and followed up on as required. A new spreadsheet tracking system was developed in 05/06 to facilitate follow-up inspections.

### **Compliance Focus 06/07**

#### Pesticide Use Report Auditing

The Yolo County Agriculture Department will conduct thirty grower Pesticide Use Report audits this fiscal year. Dealer sales invoices will be matched to pesticide use reports for thirty random growers. This data will then be compared to stored pesticides of each operator to measure compliance with use reporting. Obvious discrepancies will result in an Agriculture Civil Penalty (ACP).

Audits completed during the 05/06 fiscal year led to three ACPs due to gross discrepancies in purchased products and amount of use reported.

#### Measures of Success

The goal of a comprehensive inspection plan is to increase compliance. A decrease in non-compliances found can be an effective indicator of success if all other things are equal. Striving to increase the effectiveness of our compliance activities by further refining focused and targeted inspection schemes may in the short term, increase the number of non-compliances identified. A decrease in the number of non-compliances found for the 06/07 fiscal year will be a good measure of the effectiveness of our implemented program changes. Our current plan will allow for flexibility for changes that may occur with pesticide use activities or with changes in priorities with in the



county or at the state level. Periodic review by licensed staff and by our DPR EBL will help in analyzing our measure of success in this program.

## **Investigation Response and Reporting Improvement**

### Investigation Response and Reporting

The Yolo County Department of Agriculture investigated 25 pesticide episodes and related complaints for the 05/06 fiscal year that accounted for 658 documented staff hours. All were completed within 120 days, as requested by the Department of Pesticide Regulation Worker Health and Safety Branch, with the exception of one. The delay of this report was due to a clerical error. A single report was returned to our department for additional documentation and supporting evidence.

### Strengths

- Experienced investigators
- A good basic investigation write - up format is provided to staff

### Weaknesses

- More efficient tracking mechanism for timeliness
- More training for less experienced investigators who will be asked to step forward to help spread the workload

The Yolo County Department of Agriculture has identified that our investigative response and reporting has resulted in thorough and, for the most part, timely completion of episode investigations. The investigations that were conducted were effective in fact-finding and information gathering. The investigations allowed us to take appropriate enforcement action when violations were discovered.

### Goal or Objective

A commitment to implement an investigation response plan, based on the findings of the evaluation identified above, to ensure all investigations are completed in a timely manner with accurate and supportive information.

### Deliverables

- Timely initiation and completion of all priority and non-priority investigations.
  - Start priority episode investigations within 2 working days of department notification
  - Submit preliminary update on priority investigation to DPR within 15 days
  - Require assistance from DPR staff liaison in priority investigations
  - Complete all investigative reports within 120 days
  - Development and use of investigation plan
  - Use elements of violation analysis in Hearing Officer Handbook
- Thorough report preparation.
  - Attach supporting documentation and evidence
- Investigative response plan

- Tracking system for assuring episode notifications and investigations are completed in a timely manner
- Annual staff training in investigative techniques
- Maintain Monthly Pesticide Episode Investigation Log

### Measures of Success

The best measure of success is the yearly evaluation of our investigation and response reporting for deficiencies. We will discuss with licensed staff and DPR EBL our investigation and response reporting process periodically to find (if any) deficiencies and develop a plan of action to address identified deficiencies or area of concern. Periodic review of all investigations will be imperative to assure that all priority investigations be reported to EBL immediately and a 15 day report is submitted. Additionally, complete all priority investigations within 60 days of the date of the priority incident or when the Yolo County Department of Agriculture was notified of the incident. All non-priority investigations are completed within 120 days when possible. The number of returned or incomplete investigations will also show a direct correlation to the success of this program.

## **E. Enforcement Response**

### **Enforcement Response Evaluation**

#### Current Enforcement Response Practices

All inspections and investigations (including pesticide illness investigations & complaints) are reviewed by the Deputy Agricultural Commissioner. Those that indicate non-compliances or violations are discussed between the respective inspector and the Deputy Commissioner and a decision is made on what compliance action shall be taken. Yolo County has developed an “Enforcement Criteria” that is followed to ensure that consistent enforcement is taken on all incidences. Our EBL reviewed this “Criteria” and an agreement was reached as to the type of enforcement response that would be taken on non-compliances listed within the criteria. Recently, the DPR has also developed an Enforcement Response Policy (ERP), which directs the commissioner to take specific actions for violations noted in our inspection process. As directed by DPR, this policy will be utilized by the Yolo County Agriculture Department to further ensure that a consistent enforcement program is in place.

#### Program Strengths

- Documentation of review of all non-compliances is necessary if our program is ever monitored by the public and also during oversight of our program by DPR EBL
- The use of the established “Enforcement Criteria” and the ERP ensures consistent action is taken for violations.

#### Weaknesses

- Timeliness of completion of cases has become an issue. Due to staffing and other program responsibilities many cases are not closed in a timely manner. Staff will need to prioritize their workload to complete investigations in a timely manner. The Deputy shall track those cases to ensure completion.

### Goal or Objective

The goal of the ERP summarized above, is to provide a swift and fair response to non-compliances. The actions must be consistent and fair in order to maintain the respect of the regulated industry as well as maintaining the integrity of this office.

### Deliverables

- Consideration of all appropriate enforcement options
  - Application of the Enforcement Response Guidelines
  - Use of Citable Sections as resource
  - Application of the Fine Guidelines
- Timely response
  - set PUE staff meetings on regular schedule
  - oversee support staff to be sure actions are sent out immediately upon signature of the Commissioner
- Steps County undertakes to follow through on pending action
  - Each month non-compliances actions are reviewed by the Deputy
  - Deputy maintains copy of any outstanding non-compliance to ensure the actions are completed in a timely manner.

### Measure of Success

The best measure of success of the enforcement response program is the resulting compliance record of those entities that have been affected by the program. Monitor the compliance history of those businesses that have received actions from our enforcement response program to see if their compliance has indeed increased. There should also an improvement in the compliance of other entities that have not been directly affected by our enforcement response program just through pier or industry contact.